

Fishery Conservation and Management

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AUTHORITY: 16 U.S.C. 1801 *et. seq.*

SOURCE: 61 FR 34572, July 2, 1996, unless otherwise noted.

Subpart A—General

§ 660.1 Purpose and scope.

(a) The regulations in this part govern fishing for Western Pacific and West Coast fishery management unit species by vessels of the United States that operate or are based inside the outer boundary of the EEZ off Western Pacific and West Coast States.

(b) General regulations governing fishing by all vessels of the United States and by fishing vessels other than vessels of the United States are contained in part 600 of this chapter.

§ 660.2 Relation to other laws.

NMFS recognizes that any state law pertaining to vessels registered under the laws of that state while operating in the fisheries regulated under this part, and that is consistent with this part and the FMPs implemented by this part, shall continue in effect with respect to fishing activities regulated under this part.

§ 660.3 Reporting and recordkeeping.

Except for fisheries subject to subparts D and F of this part, any person who is required to do so by applicable state law or regulation must make and/or file all reports of management unit species landings containing all data and in the exact manner required by applicable state law or regulation.

Subpart B—Western Pacific Fisheries—General

§ 660.11 Purpose and scope.

(a) This subpart contains regulations that are common to all Western Pacific fisheries managed under fishery management plans prepared by the Western Pacific Fishery Management Council under the Magnuson Act.

(b) Regulations specific to individual fisheries are included in subparts C, D, E, and F of this part.

§ 660.12 Definitions.

In addition to the definitions in the Magnuson Act and in § 600.10 of this chapter, the terms used in subparts B through F of this part have the following meanings:

Bottomfish FMP means the Fishery Management Plan for Bottomfish and Seamount Groundfish of the Western Pacific Region.

Bottomfish management area means the areas designated in § 660.69.

Bottomfish management unit species means the following fish:

Common name	Local name	Scientific name
Snappers:		
Silver jaw jobfish	Lehi (H); palu-gustusilvia (S)	<i>Aphareus rutilans</i> .
Gray jobfish	Uku (H); asoama (S)	<i>Apion virescens</i> .
Squirrelfish snapper	Ehu (H); palu-malau (S)	<i>Etelis carbunculus</i> .
Longtail snapper	Onaga, ula'T1ula (H); palu-loa (S)	<i>Etelis coruscans</i> .
Blue stripe snapper	Ta'ape (H); savane (S); funai (G)	<i>Lutjanus kasmira</i> .
Yellowtail snapper	Palu-i' lusama (S); yellowtail kalekale	<i>Pristipomoides auricilla</i> .

Common name	Local name	Scientific name
Pink snapper	Opakapaka (H); palu-'Tiena'lana (S); gadao (G).	<i>Pristipomoides</i> .
Yelloweye snapper	Palusina (S); yelloweye opakapaka	<i>Pristipomoides flavipinnis</i> .
Snapper	Kalekale (H)	<i>Pristipomoides sieboldii</i> .
Snapper	Gindai (H,G); palu-sega (S)	<i>Pristipomoides zonatus</i> .
Jacks:		
Giant trevally	White ulua (H); tarakito (G); sapo-anae (S).	<i>Caranx ignobilis</i> .
Black jack	Black ulua (H); tarakito (G); tafaui (S)	<i>Caranx lugubris</i> .
Thick lipped trevally	Pig ulua (H); butaguchi (H)	<i>Pseudocaranx dentex</i> .
Amberjack	Kahala (H)	<i>Seriola dumerilii</i> .
Groupers:		
Blacktip grouper	Fausi (S); gadau (G)	<i>Epinephelus fasciatus</i> .
Sea bass	Hapu' 1upu'u (H)	<i>Epinephelus quernus</i> .
Lunartail grouper	Papa (S)	<i>Variola louti</i> .
Emperor fishes:		
Ambon emperor	Filao-gutumumu (S)	<i>Lethrinus amboinensis</i> .
Redgill emperor	Filao-pa'lo'omumu (S); mafuti (G)	<i>Lethrinus rubrioperculatus</i> .

NOTES: G—Guam; H—Hawaii; S—American Samoa.

Carapace length means a measurement in a straight line from the ridge between the two largest spines above the eyes, back to the rear edge of the carapace of a spiny lobster (see Figure 1 of this part).

Commercial fishing, as used in subpart D of this part, means fishing with the intent to sell all or part of the catch of lobsters. All lobster fishing in Crustaceans Permit Area 1 is considered commercial fishing.

Council means the Western Pacific Fishery Management Council.

Crustaceans FMP means the Fishery Management Plan for Crustacean Fisheries of the Western Pacific Region.

Crustaceans management area means the combined portions of the EEZ encompassed by Crustaceans Permit Areas 1, 2, and 3.

Crustaceans management unit species means spiny lobster (*Panulirus marginatus* or *Panulirus penicillatus*), slipper lobster (family *Scyllaridae*), and Kona crab (*Ranina ranina*).

Crustaceans Permit Area 1 (Permit Area 1) means the EEZ off the Northwestern Hawaiian Islands.

Crustaceans Permit Area 2 (Permit Area 2) means the EEZ off the main Hawaiian Islands.

Crustaceans Permit Area 3 (Permit Area 3) means the EEZ of the Territory of Guam and the EEZ of the Territory of American Samoa.

Crustaceans Permit Area 1 VMS Sub-area means an area within the EEZ off the NWHI 50 nm from the center geographical positions of the islands and

reefs in the NWHI as follows: Nihoa Island 23°05' N. lat., 161°55' W. long.; Necker Island 23°35' N. lat., 164°40' W. long.; French Frigate Shoals 23°45' N. lat., 166°15' W. long.; Garner Pinnacles 25°00' N. lat., 168°00' W. long.; Maro Reef 25°25' N. lat., 170°35' W. long.; Laysan Island 25°45' N. lat., 171°45' W. long.; Lisianski Island 26°00' N. lat., 173°55' W. long.; Pearl and Hermes Reef 27°50' N. lat., 175°50' W. long.; Midway Islands 28°14' N. lat., 177°22' W. long.; and Kure Island 28°25' N. lat., 178°20' W. long. The remainder of the VMS sub-area is delimited by parallel lines tangent to and connecting the 50-nm areas around the following: from Nihoa Island to Necker Island; from French Frigate Shoals to Gardner Pinnacles; from Gardner Pinnacles to Maro Reef; from Laysan Island to Lisianski Island; and from Lisianski Island to Pearl and Hermes Reef.

Crustaceans receiving vessel means a vessel of the United States to which lobster taken in Permit Area 1 are transferred from another vessel.

Dead coral means any precious coral that contains holes from borers or is discolored or encrusted at the time of removal from the seabed.

EFP means an experimental fishing permit.

First level buyer means:

(1) The first person who purchases, with the intention to resell, management unit species, or portions thereof, that were harvested by a vessel that holds a permit or is otherwise regulated under subpart D of this part; or

(2) A person who provides record-keeping, purchase, or sales assistance in the first transaction involving management unit species (such as the services provided by a wholesale auction facility).

Fish dealer means any person who:

(1) Obtains, with the intention to resell, Pacific pelagic management unit species, or portions thereof, that were harvested or received by a vessel that holds a permit or is otherwise regulated under subpart E of this part; or

(2) Provides recordkeeping, purchase, or sales assistance in obtaining or selling such management unit species (such as the services provided by a wholesale auction facility).

Fisheries Management Division (FMD) means the Chief, Fisheries Management Division, Southwest Regional Office, NMFS, or a designee. See Table 1 to § 600.502 for the address of the Regional Office.

Fishing gear, as used in subpart D of this part, includes:

(1) *Bottom trawl*, which means a trawl in which the otter boards or the footrope of the net are in contact with the sea bed.

(2) *Gillnet*, (see § 600.10).

(3) *Hook-and-line*, which means one or more hooks attached to one or more lines.

(4) *Set net*, which means a stationary, buoyed, and anchored gill net.

(5) *Trawl*, (see § 600.10).

Fishing trip means a period of time during which fishing is conducted, beginning when the vessel leaves port and ending when the vessel lands fish.

Fishing year means the year beginning at 0001 local time on January 1 and ending at 2400 local time on December 31.

Harvest guideline means a specified numerical harvest objective.

Hawaii longline limited access permit means the permit required by § 660.21 to use a vessel to fish for Pacific pelagic management unit species with longline gear in the EEZ around Hawaii or to land or transship longline-caught Pacific pelagic management unit species shoreward of the outer boundary of the EEZ around Hawaii.

Incidental catch or incidental species means species caught while fishing for

the primary purpose of catching a different species.

Interested parties means the State of Hawaii Department of Land and Natural Resources, the Council, holders of permits issued under subpart D of this part, and any person who has notified the Regional Director of his or her interest in the procedures and decisions described in §§ 660.51 and 660.52, and who has specifically requested to be considered an "interested party."

Land or landing means offloading fish from a fishing vessel, arriving in port to begin offloading fish, or causing fish to be offloaded from a fishing vessel.

Length overall (LOA) or *length* of a vessel, as used in § 660.21(i), means the horizontal distance, rounded to the nearest foot (with 0.5 ft and above rounded upward), between the foremost part of the stem and the aftermost part of the stern, excluding bowsprits, rudders, outboard motor brackets, and similar fittings or attachments (see Figure 2 of this part). "Stem" is the foremost part of the vessel, consisting of a section of timber or fiberglass, or cast, forged, or rolled metal, to which the sides of the vessel are united at the fore end, with the lower end united to the keel, and with the bowsprit, if one is present, resting on the upper end. "Stern" is the aftermost part of the vessel.

Live coral means any precious coral that is free of holes from borers, and has no discoloration or encrustation on the skeleton at the time of removal from the seabed.

Lobster closed area means an area of the EEZ that is closed to fishing for lobster.

Longline fishing prohibited area means the portions of the EEZ in which longline fishing is prohibited as specified in § 660.26.

Longline fishing vessel means a vessel that has longline gear on board the vessel.

Longline gear means a type of fishing gear consisting of a main line that exceeds 1 nm in length, is suspended horizontally in the water column either anchored, floating, or attached to a vessel, and from which branch or dropper lines with hooks are attached; except that, within the protected species zone, longline gear means a type of fishing

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gear consisting of a main line of any length that is suspended horizontally in the water column either anchored, floating, or attached to a vessel, and from which branch or dropper lines with hooks are attached.

Longline general permit means the permit required by §660.21 to use a vessel to fish for Pacific pelagic management unit species in the fishery management area, excluding the EEZ around Hawaii, or to land or transship longline-caught fish shoreward of the outer boundary of the fishery management area, excluding the waters shoreward of the EEZ around Hawaii.

Main Hawaiian Islands means the islands of the Hawaiian Islands Archipelago lying to the east of 161° W. long.

Non-precious coral means any species of coral other than those listed under the definition for precious coral in this section.

Non-selective gear means any gear used for harvesting corals that cannot discriminate or differentiate between types, size, quality, or characteristics of living or dead corals.

Northwestern Hawaiian Islands (NWHI) means the islands of the Hawaiian Islands Archipelago lying to the west of 161° W. long.

Offloading means removing management unit species from a vessel.

Owner, as used in subparts C and D of this part, means a person who is identified as the current owner of the vessel as described in the Certificate of Documentation (Form CG-1270) issued by the USCG for a documented vessel, or in a registration certificate issued by a state or territory or the USCG for an undocumented vessel. As used in subpart E and F of this part, owner has the meaning in §600.10 of this chapter.

Pacific Area Office means the Pacific Area Office, Southwest Region, NMFS, located in Honolulu, HI. The address and phone number may be obtained from the Regional Director whose address is in Table 1 to §600.502.

Pacific pelagic management unit species means the following fish:

Common name	Scientific name
Mahimahi (dolphin fish)	<i>Coryphaena</i> spp.
Marlin and spearfish	<i>Makaira</i> spp.
Oceanic sharks	<i>Tetrapturus</i> spp.
	Family Alopiidae.
	Family Carcharhinidae.

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Common name	Scientific name
	Family Lamnidae.
	Family Sphyrnidae.
Sailfish	<i>Istiophorus platypterus</i> .
Swordfish	<i>Xiphias gladius</i> .
Tuna and related species	<i>Allothenus</i> spp., <i>Auxis</i> spp.
	<i>Euthynnus</i> spp.,
	<i>Gymnosarda</i> spp.
	<i>Katsuwonus</i> spp., <i>Scomber</i> spp.
	<i>Thunnus</i> spp.
Wahoo	<i>Acanthocybium solandri</i> .

Pelagics FMP means the Fishery Management Plan for Pelagic Species Fisheries of the Western Pacific Region.

Precious coral means any coral of the genus *Corallium* in addition to the following species of corals:

Common name	Scientific name
Pink coral (also known as red coral).	<i>Corallium secundum</i> .
Pink coral (also known as red coral).	<i>Corallium regale</i> .
Pink coral (also known as red coral).	<i>Corallium laauense</i> .
Gold coral	<i>Gerardia</i> spp.
Gold coral	<i>Callogorgia gilberti</i> .
Gold coral	<i>Narella</i> spp.
Gold coral	<i>Calyptrophora</i> spp.
Bamboo coral	<i>Lepidisis olapa</i> .
Bamboo coral	<i>Acanella</i> spp.
Black coral	<i>Antipathes dichotoma</i> .
Black coral	<i>Antipathes grandis</i> .
Black coral	<i>Antipathes ulex</i> .

Precious coral permit area means the area encompassing the precious coral beds in the management area. Each bed is designated by a permit area code and assigned to one of the following four categories:

(1) *Established beds*. Makapuu (Oahu), Permit Area E-B-1, includes the area within a radius of 2.0 nm of a point at 21°18.0' N. lat., 157°32.5' W. long.

(2) *Conditional beds*. (i) Keahole Point (Hawaii), Permit Area C-B-1, includes the area within a radius of 0.5 nm of a point at 19°46.0' N. lat., 156°06.0' W. long.

(ii) Kaena Point (Oahu), Permit Area C-B-2, includes the area within a radius of 0.5 nm of a point at 21°35.4' N. lat., 158°22.9' W. long.

(iii) Brooks Bank, Permit Area C-B-3, includes the area within a radius of 2.0 nm of a point at 24°06.0' N. lat., 166°48.0' W. long.

(iv) 180 Fathom Bank, Permit Area C-B-4, N.W. of Kure Atoll, includes the area within a radius of 2.0 nm of a point at 28°50.2' N. lat., 178°53.4' W. long.

(3) *Refugia*. Westpac Bed, Permit Area R-1, includes the area within a radius of 2.0 nm of a point at 28°50.2' N. lat., 162°35.0' W. long.

(4) *Exploratory areas*. (1) Permit Area X-P-H includes all coral beds, other than established beds, conditional beds, or refugia, in the EEZ seaward of the State of Hawaii.

(ii) Permit Area X-P-AS includes all coral beds, other than established beds, conditional beds, or refugia, in the EEZ seaward of American Samoa.

(iii) Permit Area X-P-G includes all coral beds, other than established beds, conditional beds, or refugia, in the EEZ seaward of Guam.

(iv) Permit Area X-P-PI includes all coral beds, other than established beds, conditional beds, or refugia, in the EEZ seaward of the U.S. Pacific Island possessions.

Protected species means an animal protected under the MMPA, listed under the ESA, or subject to the Migratory Bird Treaty Act, as amended.

Protected species study zones means the waters within a specified distance, designated by the Regional Director pursuant to §660.66, around the following islands of the NWHI and as measured from the following coordinates: Nihoa Island 23°05' N. lat., 161°55' W. long.; Necker Island 23°35' N. lat., 164°40' W. long.; French Frigate Shoals 23°45' N. lat., 166°15' W. long.; Gardner Pinnacles 25°00' N. lat., 168°00' W. long.; Maro Reef 25°25' N. lat., 170°35' W. long.; Laysan Island 25°45' N. lat., 171°45' W. long.; Lisianski Island 26°00' N. lat., 173°55' W. long.; Pearl and Hermes Reef 27°50' N. lat., 175°50' W. long.; Midway Island 28°14' N. lat., 177°22' W. long.; and Kure Island 28°25' N. lat., 178°20' W. long. The protected species study zones encompasses waters within 50 nm of the geographical coordinates listed above.

Protected species zone means an area, designated under §660.26, measured from the center geographical positions of certain islands and reefs in the NWHI, as follows: Nihoa Island 23°05' N. lat., 161°55' W. long.; Necker Island 23°35' N. lat., 164°40' W. long.; French Frigate Shoals 23°45' N. lat., 166°15' W. long.; Gardner Pinnacles 25°00' N. lat., 168°00' W. long.; Maro Reef 25°25' N. lat., 170°35' W. long.; Laysan Island 25°45' N.

lat., 171°45' W. long.; Lisianski Island 26°00' N. lat., 173°55' W. long.; Pearl and Hermes Reef 27°50' N. lat., 175°50' W. long.; Midway Islands 28°14' N. lat., 177°22' W. long.; and Kure Island 28°25' N. lat., 178°20' W. long. Where the areas are not contiguous, parallel lines drawn tangent to and connecting those semi-circles of the 50-nm areas that lie between Nihoa Island and Necker Island, French Frigate Shoals and Gardner Pinnacles, Gardner Pinnacles and Maro Reef, and Lisianski Island and Pearl and Hermes Reef, shall delimit the remainder of the protected species zone.

Qualifying landing means a landing that meets a standard required for permit eligibility under §660.61.

(1) *Permit renewal*. A qualifying landing for permit renewal under §660.61(e) is a landing that contained 2,500 lb (1,134 kg) of bottomfish from the NWHI or a landing of at least 2,500 lb (1,134 kg) of fish from the NWHI, of which at least 50 percent by weight was bottomfish.

(2) *New access eligibility points*. A qualifying landing for eligibility points under §660.61(g) is any landing of bottomfish from the NWHI, regardless of weight, if made on or before August 7, 1985; or a landing of at least 2,500 lb (1,134 kg) of bottomfish lawfully harvested from the NWHI, or a landing of at least 2,500 lb (1,134 kg) of fish lawfully harvested from the NWHI, of which at least 50 percent by weight was bottomfish, if made after August 7, 1985.

Receiving vessel permit means a permit required by §660.21(c) for a receiving vessel to transship or land Pacific pelagic management unit species taken by other vessels using longline gear.

Regional Director means the Director, Southwest Region, NMFS (see Table 1 of §600.502 for address).

Seamount groundfish means the following species:

Common name	Scientific name
Armorhead	<i>Pentaceros richardsoni</i> .
Alfonsin	<i>Beryx splendens</i> .
Raftfish	<i>Hyperoglyphe japonica</i> .

Selective gear means any gear used for harvesting corals that can discriminate or differentiate between type, size,

quality, or characteristics of living or dead corals.

Special Agent-In-Charge (SAC) means the Special Agent-In-Charge, NMFS, Office of Enforcement, Southwest Region, or a designee of the Special Agent-In-Charge.

Transship means offloading or otherwise transferring management unit species or products thereof to a receiving vessel.

Trap means a box-like device used for catching and holding lobsters.

U.S. harvested corals means coral caught, taken, or harvested by vessels of the United States within any fishery for which a fishery management plan has been implemented under the Magnuson Act.

Vessel monitoring system unit (VMS unit) means the hardware and software owned by NMFS, installed on vessels by NMFS, and required by subpart C of this part to track and transmit the positions of longline vessels or the hardware and software used by vessels to track and transmit the positions of vessels permitted under subpart D of this part to fish in Crustaceans Permit Area 1.

[61 FR 34572, July 2, 1996, as amended at 62 FR 35449, July 1, 1997; 62 FR 47587, Sept. 10, 1997; 62 FR 43294, Aug. 13, 1997; 63 FR 20540, Apr. 27, 1998; 63 FR 29355, May 29, 1998]

EFFECTIVE DATE NOTE: At 63 FR 40379, July 29, 1998, § 660.12 was amended by adding the definition *Lobster grounds*, effective July 23, 1998, through Dec. 31, 1998. For the convenience of the user, the added text follows:

§ 660.12 Definitions.

* * * * *

Lobster grounds refers, singularly or collectively, to the following four areas in Crustaceans Permit Area 1 that shall be used to manage the 1998 lobster fishery:

(1) *Necker Island Lobster Grounds*—waters bounded by straight lines connecting the following coordinates in the order presented: 24°00' N. lat., 165°00' W. long.; 24° 00' N. lat., 164° 00' W. long.; 23° 00' N. lat., 164° 00' W. long.; and 23° 00' N. lat., 165° 00' W. long.

(2) *Gardner Pinnacles Lobster Grounds*—waters bounded by straight lines connecting the following coordinates in the order presented: 25° 20' N.

lat., 168° 20' W. long.; 25° 20' N. lat., 167° 40' W. long.; 24° 20' N. lat., 167° 40' W. long.; and 24° 20' N. lat., 168° 20' W. long.

(3) *Maro Reef Lobster Grounds*—waters bounded by straight lines connecting the following coordinates in the order presented: 25° 40' N. lat., 171° 00' W. long.; 25° 40' N. lat., 170° 20' W. long.; 25° 00' N. lat., 170° 20' W. long.; and 25° 00' N. lat., 171° 00' W. long.

(4) *General NWHI Lobster Grounds*—all waters within Crustaceans Permit Area 1 except for the Necker Island, Gardner Pinnacles, and Maro Reef Lobster Grounds.

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§ 660.13 Permits and fees.

(a) *Applicability.* The requirements for permits for specific Western Pacific fisheries are set forth in subparts C through F of this part.

(b) *Validity.* Each permit is valid for fishing only in the specific fishery management areas identified on the permit.

(c) *Application.* (1) A Southwest Region Federal Fisheries application form may be obtained from the Pacific Area Office to apply for a permit to operate in any of the fisheries regulated under subparts C, D, E, and F of this part. In no case shall the Pacific Area Office accept an application that is not on the Southwest Region Federal Fisheries application form. A completed application is one that contains all the necessary information, attachments, certifications, signatures, and fees required.

(2) A minimum of 15 days should be allowed for processing a permit application. If an incomplete or improperly completed application is filed, the applicant will be sent a notice of deficiency. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.

(d) *Change in application information.* A minimum of 10 days should be given for the Pacific Area Office to record any change in information from the permit application submitted under paragraph (c) of this section. Failure to report such changes may result in invalidation of the permit.